

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

**PAUL CANTU**

**PLAINTIFF**

vs.

No. 5:19-cv-1271

**TRINITY UNIVERSITY**

**DEFENDANT**

**ORIGINAL COMPLAINT**

COMES NOW Plaintiff Paul Cantu, by and through his attorney Josh Sanford of Sanford Law Firm, PLLC, for his Original Complaint against Defendant Trinity University ("Defendant"), states and alleges as follows:

**I. PRELIMINARY STATEMENTS**

1. Defendant violated the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. ("FLSA") when Defendant failed to pay Plaintiff overtime premiums for hours worked in excess of forty (40) per week when he was employed as an accountant.

2. Plaintiff brings this action under the FLSA for declaratory judgment, monetary damages, liquidated damages, prejudgment interest, including reasonable attorneys' fees, as a result of Defendant's commonly applied policy and practice of failing to pay Plaintiff for the hours in excess of forty (40) hours in each week that Plaintiff was made to work.

3. Upon information and belief, for at least three (3) years prior to the filing of this Complaint, Defendant has willfully and intentionally committed violations of the FLSA and the AMWA as described, *infra*.

## **II. JURISDICTION AND VENUE**

4. This action is brought by Plaintiff against Defendant for violations of the FLSA 29 U.S.C. § 201, et seq.

5. The United States District Court for the Western District of Texas has subject matter jurisdiction over this suit under the provisions of 28 U.S.C. § 1331 because this suit raises federal questions under the FLSA.

6. The acts complained of herein were committed and had their principal effect against the named Plaintiff within the San Antonio Division of the Western District of Texas; therefore, venue is proper within this District pursuant to 28 U.S.C. § 1391.

## **III. THE PARTIES**

7. Plaintiff repeats and re-alleges all the preceding paragraphs of this Complaint as if fully set forth in this section.

8. Plaintiff Paul Cantu is a resident and citizen of San Antonio.

9. Defendant is a non-profit corporation and may be served through its registered agent for service of process Capitol Corporate Services, Inc., 206 East 9<sup>th</sup> Street, Suite 1300, Austin, Texas 78701-4411.

10. Defendant operates a private, liberal arts university in San Antonio.

11. Defendant maintains a website at <https://new.trinity.edu>.

## **IV. FACTUAL ALLEGATIONS**

12. Plaintiff repeats and re-alleges all the preceding paragraphs of this Original Complaint as if fully set forth in this section.

13. Plaintiff was an employee of Defendant's within the last three years.

14. At all times relevant to this Complaint, Defendant was an employer within the meaning of the FLSA.

15. At all times relevant to the allegations in this Complaint, Defendant was Plaintiff's employer.

16. Defendant's annual gross volume of sales for each of the three calendar years preceding the filing of the Original Complaint in this case is not less than \$500,000.00.

17. In each of the three years preceding the filing of this Original Complaint, Defendant had at least two employees that handle, sell or otherwise work with goods or materials that have been moved in or produced for interstate commerce, such as use computers, copy machines, fax machines, calculators, telephones and other office equipment, in performing job duties.

18. At all relevant times, Defendant continuously employed at least four (4) employees.

19. From January of 2014 until August of 2018 Plaintiff was employed by Defendant.

20. Plaintiff's job title was "accountant."

21. Plaintiff was paid a salary with no overtime premium for hours worked in excess of forty (40) hours per week.

22. Although Plaintiff was employed by Defendant as an accountant, Plaintiff replaced the position of the Material Management/Plant Fund Specialist.

23. Upon information and belief, Material Management/Plant Fund Specialists are/were also called "inventory coordinators".

24. Upon information and belief, Material Management/Plant Fund Specialists record and turn-in their hours worked to Defendant.

25. Material Management/Plant Fund Specialists are treated as non-exempt from the overtime requirements of the FLSA.

26. According to the job description of a Material Management/Plant Fund Specialist, a Material Management/Plant Fund Specialist's job duties include, but are not necessarily limited to, monitoring and maintaining the data recorded on the Fixed Asset System, preparing reports, assisting with annual audits and distributing accounting system reports.

27. Plaintiff routinely worked in excess of forty (40) hours per week.

28. Plaintiff worked as many sixty (60) hours per week.

29. Defendant violated the FLSA by failing to pay Plaintiff overtime premiums for all hours worked in excess of forty (40) per week.

30. Plaintiff's job duties were largely the job duties that were the job duties of a Material Management/Plant Fund Specialist.

31. For example, Plaintiff's primary job duty was maintaining an accounting of asset records in Defendant's database software.

32. Plaintiff's primary job duty largely involved formatting large amounts of data into Defendant's software database.

33. Plaintiff's primary job duty also largely involved updating records in the software database when needed, preparing reports and tracking and monitoring expenses in the software database.



34. Plaintiff's primary job duties did not include the exercise discretion and independent judgment with respect to matters of significance.

35. Plaintiff was required to be able to sit at a desk and view a computer display for long periods of time.

36. Plaintiff did not supervise other employees.

37. Plaintiff was and is entitled to one-and-one-half (1.5) times his regular rate of pay for hours worked in excess of forty (40) in a week.

38. Defendant knew, or showed reckless disregard for whether, the way it paid Plaintiff violated the FLSA.

#### **V. CLAIM FOR VIOLATION OF THE FLSA**

39. Plaintiff repeats and re-alleges all previous paragraphs of this Original Complaint as though fully incorporated herein.

40. Defendant violated the overtime provisions of the FLSA by failing to pay Plaintiff overtime premiums for all hours worked in excess of forty (40) per week.

41. Defendant is liable to Plaintiff for the violations described in the factual allegations section, above.

42. Additionally, Plaintiff is entitled to an amount equal to his unpaid wages as liquidated damages, as well as reasonable attorney's fees and the costs of this action.

#### **VI. PRAYER FOR RELIEF**

WHEREFORE, premises considered, Plaintiff Paul Cantu, respectfully prays as follows:

A. That Defendant be summoned to appear and answer herein;

B. That Defendant be required to account to Plaintiff and the Court for all of the hours worked by Plaintiff and all monies paid to him;

C. A declaratory judgment that Defendant's practices alleged herein violate the Fair Labor Standards Act, 29 U.S.C. §201, et seq., and attendant regulations at 29 C.F.R. §516 et seq.;

E. Judgment for damages for all unpaid overtime compensation under the Fair Labor Standards Act, 29 U.S.C. §201, et seq., and attendant regulations at 29 C.F.R. §516 et seq.;

G. Judgment for liquidated damages pursuant to the Fair Labor Standards Act, 29 U.S.C. §201, et seq., and attendant regulations at 29 C.F.R. §516 et seq., in an amount equal to all unpaid overtime compensation owed to Plaintiff during the applicable statutory period;

I. An order directing Defendant to pay Plaintiff prejudgment interest, reasonable attorney's fees and all costs connected with this action;

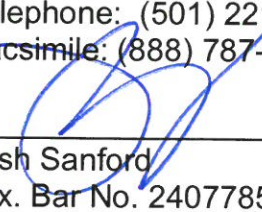
J. Reservation of the right to amend this Complaint as provided by law; and

K. Such other and further relief as this Court may deem necessary, just and proper.

Respectfully submitted,

**PLAINTIFF PAUL CANTU**

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